



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/735,162	12/11/2003	Hawley K. Rising III	80398.P534C	1651

7590 06/20/2008
Sheryl Sue Holloway
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025

EXAMINER

PARDO, THUY N

ART UNIT	PAPER NUMBER
----------	--------------

2168

MAIL DATE	DELIVERY MODE
-----------	---------------

06/20/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/735,162	Applicant(s) RISING, HAWLEY K.	
	Examiner Thuy N. Pardo	Art Unit 2168	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 June 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) See Continuation Sheet is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 21, 23, 25-40, 42, 44-49, 51, 53-68, 70, 72-77, 79, 81-96, 98 and 100-104 is/are allowed.
- 6) ☒ Claim(s) 105, 107, 110, 111, 113-124, 126 and 129-132 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Continuation of Disposition of Claims: Claims pending in the application are 21,23,25-40,42,44-49,51,53-68,70,72-77,79,81-96,98,100-105,107,109-124,126 and 128-132.

DETAILED ACTION

1. Applicant's Amendment filed June 03, 2008 in response to Examiner's Office Action has been reviewed. Claims 21, 23, 25-40, 42, 44-49, 51, 53-68, 70, 72-77, 79, 81-96, 98, 100-105, 107, 109-124, 126 and 128-132 are pending in the application. Claims 21, 40, 49, 68, 77, 96, 105 and 124 have been amended, and claims 1-20, 22, 24, 41, 43, 50, 52, 69, 71, 78, 80, 97, 99, 106, 108, 125 and 127 have been canceled. This Office Action is Non-Final.

Allowable Subject Matter

2. Claims 21, 23, 25-40, 42, 44-49, 51, 53-68, 70, 72-77, 79, 81-96, 98, 100-105, 107, 109-124, 126 and 128-132 are allowable over the prior art of record. The reasons for the indication of allowable subject matter for these claims have been addressed in the previous Office Action.

3. The indicated allowability of claims 105, 107, 110, 111, 113-124, 126 and 129-132 are withdrawn in view of the newly discovered 101 rejection. Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 105, 107, 110, 111, 113-124, 126 and 129-132 are rejected under 35 USC 101 because these claims are directed to non-statutory subject matter. The content of these claims does not constitute a statutory process, machine, manufacture or composition of matter in which the statutory process must result in a physical transformation in a computer system. For instance, since claims are apparatus, there is no hardware or devices in the body of independent claims 105 and 124.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thuy N. Pardo whose telephone number is 571-272-4082. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tim Vo can be reached on 571-272-3642. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2168

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Thuy N. Pardo/

Primary Examiner, Art Unit 2168